S.B. CIVIL MISC. APPEAL NO.454/1994
(RSRTC Vs. Pankaj & anr.)

Date of Order :: 19.10.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.B.S.Bhati for the appellants
Mr.Rajesh Choudhary for Mr.Suresh Shrimali for respondent No.1
Mr.B.N.Kalla for the respondent No.2.

This appeal has been preferred by the owner of the vehicle involved in the accident against the award dated 17.03.1994 made by the Motor Accidents Claims Tribunal, Udaipur in Claim Case No.433/1990 whereby the Tribunal has awarded compensation in the sum of Rs.50,427/- to the claimant for the loss suffered by him due to the bodily injuries and property damage in a vehicular accident that was caused by a bus bearing registration No.RNE 3517 belonging to the appellant hitting a moped RJ 27 M0597, the injured was riding at.

This appeal was admitted on 22.08.1994 while noticing the only contention sought to be raised on behalf of the appellant that while passing the award for compensation, the Tribunal should have deducted the amount of no fault liability of Rs.12,500/- which was not adjusted by the Tribunal in the final award made. This Court noticed thus:

> "The only ground, which is submitted by the counsel for the appellant is that the amount of no fault liability of Rs.12,500/- was not adjusted while passing the final award."

On the appeal being taken up for hearing and upon examination of record with reference to the limited point on which the appeal has been admitted, it is of course noticed that the Tribunal has made award aforesaid in the sum of Rs.50,427/- with interest at the rate of 12% per annum but has not made specific order for adjustment of the amount in relation to no fault liability. However, the record nowhere reveals if at all any order for allowing interim compensation to the claimant under Section 140 of the Motor Vehicles Act was made by the Tribunal and if at all any such payment was made by the appellant to the claimant?

The submission sought to be made in this appeal that the amount payable under the no fault liability ought to have been ordered to be deducted has no factual foundation as to when such order was made and as to whether the appellant ever made payment of such amount towards interim compensation? The ground sought to be urged in this appeal, therefore, remains baseless and incompatible with the record and cannot be countenanced.

Even otherwise, the award made by the Tribunal remains rather on the lower side and in the overall circumstances of the case calls for no interference.

In the aforesaid view of the matter, this appeal turns out to be bereft of substance and is, therefore, dismissed. No costs.

(DINESH MAHESHWARI), J.

MK